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Letter dated 2 July 2002 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

I write with reference to my letter of 10 April 2002 (S/2002/404). The Counter-Terrorism Committee has received the attached supplementary report from Indonesia, submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex).

I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(*Signed*) Jeremy **Greenstock**
Chairman
Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

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Annex

Letter dated 21 June 2002 from the Chargé d'affaires a.i. of the Permanent Mission of Indonesia to the United Nations addressed to the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism

With reference to your letter of 10 April 2002 (S/2002/404), in which Indonesia has requested to provide a response in the form of a supplementary report by 24 June 2002, and acting on instructions from my Government, I have the honour to submit herewith the response by the Government of the Republic of Indonesia in the form of a supplementary report concerning the fight against terrorism (see enclosure).

I should be grateful if you would have the present letter, including its enclosure, circulated as a document of the Security Council.

(*Signed*) Mochamad S. **Hidayat**
Ambassador/Chargé d'Affaires

Enclosure

SECOND REPORT TO THE COUNTER TERRORISM COMMITTEE (CTC) OF THE UNITED NATIONS SECURITY COUNCIL PURSUANT TO PARAGRAPH 6 OF SECURITY COUNCIL RESOLUTION 1373 (2001)

REPUBLIC INDONESIA

1. DEVELOPMENTS SINCE THE FIRST REPORT

The Government of the Republic of Indonesia is fully committed to support United Nations in its efforts to combat international terrorism. As such, the Government of the Republic of Indonesia has, on 21 December 2001, submitted its first report to the Counter Terrorism Committee (CTC) of the United Nations Security Council. In the introduction section of the report, the Government of the Republic of Indonesia highlighted two vital component in the fight against terrorism, these are strengthening of the legal infrastructure and institution capacity building.

As to the strengthening of the legal infrastructure, the Government of Indonesia is pursuing a two-track approach, namely the drafting and promulgation of national laws and the ratification of, or accession to, the relevant international conventions.

In this connection, on 17 April 2002, Indonesia has promulgated and enacted Law No. 15/2002 pertaining to Crime on Money Laundering, its main objective being to prevent the banking sector from being utilized as means for money laundering activities. The main features of Law No. 15/2002 on Crime on Money Laundering include provisions which allows law enforcement agencies (National Police and Attorney General's Office) to conduct investigations to all financial institutions regardless of the bank secrecy practices. These financial institutions have to comply with the Law and assist law enforcement agencies in conducting the investigations.

The newly enacted Law No. 15/2002 puts the burden of proof on the suspect. The suspected person(s) or entity(ies) have to give proof or evidence that the activities conducted are not related to money laundering activities as stipulated in Article 1 of said Law. Article 1 stipulates that inter alia terrorism constitutes one of the sources of money laundering crimes.

To further strengthen the legal infrastructure, Indonesia is also engaging in the formulation of a draft legislation on anti-terrorism. At present, this process has already reached the socialisation process, whereby the Government is seeking the views, comments, inputs and proposals from all segments of society in order to improve the existing draft legislation.

Moreover, Indonesia is also in the process of preparing the ratification of the "International Convention for the Suppression of the Financing Terrorism, 1999", "Convention against Transnational Crime" along with its Optional Protocols and considering acceding to the "International Convention for the Suppression of Terrorist Bombing."

On the institutional capacity building, Indonesia has successfully convened the Bali Ministerial Conference on People Smuggiing, Trafficking in Persons and Related Transnational Crime on 26-28 February 2002. The participants to this Bali Conference agreed to develop, improve, and enhance effective information and intelligence sharing arrangements, including improving cooperation between law enforcement agencies.

The Bali Conference also established Ad Hoc Expert Group I on Regional and International Cooperation as well as Ad Hoc Expert Group II on Law Enforcement, Policy and Legislative Issues. The first Ad Hoc Group is scheduled to meet in July 2002, whereas the second Ad Hoc Group already met on 13-14 June 2002 in Bangkok. The purpose of the meeting is to develop standards on law enforcement, policy and legislative issues. The Ad Hoc Group have sub working group on law enforcement and sub working group on policy and legislative issues which schedule to have meeting in August and September 2002.

The Government of the Republic Indonesia is also engaged in efforts to combat terrorism with other ASEAN countries. Pursuant to the decision of the ASEAN Senior Officials at their meeting for the Third ASEAN Ministerial Meeting on Transnational Crime (AMMTC) in October 2001, the Ad-hoc Expert Group on the Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime met in Bali, Indonesia on 21-23 January 2002 to draft the said Work Programme. The Work Programme was subsequently endorsed and adopted by the Second Annual ASEAN Senior Officials Meeting on Transnational Crime in Kuala Lumpur, Malaysia on 16-17 May 2002.

The Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime covers eight priority areas in transnational crimes. In addition, the Work Programme consists of cooperation in exchange of information, legal matters, law enforcement matters, training, institutional capacity-building and extra-regional cooperation.

2. IMPLEMENTATION

Operative Paragraph 1

Sub-paragraph 1 (a)

- Could Indonesia please outline the legal provisions which prevent or suppress the financing of terrorism?
- Are there legal or regulatory provisions which authorize the confiscation of funds and assets in addition to the Indonesian Anti-Narcotics legislation?
- As a member of the G-20, Indonesia has pledged to stop abuse of informal banking networks. Please outline how this commitment is or will be reflected in Indonesian legislation.
- According to Indonesian legislation and practice, what acts constitute reasonable grounds for suspicion and how are they dealt with?

1. On 17 April 2002, Parliament (*Dewan Perwakilan Rakyat*/DPR) enacted Law No. 15/2002 pertaining to Crime on Money Laundering. Its main objective is to prevent the banking sector from being utilized as means for money laundering activities. Article 1 of said Law states that terrorism constitutes one of the sources of money laundering crimes.

2. Bank Indonesia, as the central bank and the highest authority in the banking sector, issued Regulation No. 3/10/PBI/2001 of 18 June 2001 regarding "know your customers principles" as amended by Bank Indonesia Regulation No. 3/23/PBI/2001 of 13 December 2001, contained in External Circular Letter No. 3/29/DPNP of 13 December 2001. Provisions contained in those Bank Indonesia Regulations (*Peraturan Bank Indonesia*/ PBI) and External Circular Letter are to prevent banks from being misused as means for or becoming targets of crimes as mentioned in Article 1 (predicate crime). Through the aforementioned provisions, banks must develop customers' admission policy reflecting the customers' banking pattern.

3. According to the Indonesian Penal Procedures Code (Law No. 8/1981), and laws on Psychotropic (Law No. 22/1997), Narcotics (Law No. 5/1997), and Crime on Money Laundering (Law No. 15/2002), the Police (POLRI) is the authority responsible to confiscate assets resulting from psychotropic, narcotics, and money laundering crimes.

4. As member of G-20, Indonesia is committed to eradicate all abuses in banking system from illegal activities (informal banking networks). Judicially, such commitment is reflected in Law No. 7/1992 pertaining to Banking as amended by Law No. 10/1998. Article 46 of Law No.7/1992 states that such abuses are crimes subject to criminal sanction of imprisonment for a minimum of 5 years and for a maximum of 15 years, and to a minimum fine of Rp 10 billion and to a maximum fine of Rp 200 billion.

5. Law No. 15/2002 and PBI of 18 June 2001 regarding "know your customers principles" oblige banks to report to Bank Indonesia all suspicious transactions that are not in accordance with the nature and profile or behavioural patterns of a customer.

6. Article 1.14 and 17 of the Penal Procedures Code (Law No. 8/1981) stipulate that a suspect can be apprehended on the basis of 'reasonable grounds for suspicion' (*bukti permulaan yang cukup*) that an act of crime has been committed by said suspect.

Sub-paragraph 1 (b)

- Please outline the laws and regulations which "attach criminal liability to those who wilfully make available funds, financial assets or services to prepare or carry out terrorist acts", and state which penalties apply to those offences.

1. The related regulations that "attach criminal liability to those who wilfully make available funds, financial assets or services to prepare or carry out terrorist acts" are contained in Law No. 15/2002 on Crime on Money Laundering; PBI No. 3/10/2001; PBI No. 3/23/PBI/2001; Circular Letter No. 3/29/DPNP and its implementation guidance.

2. Law No. 15/2002 defines proceeds of crime and coverage :

a. any asset valued to the amount of Rp 500 million or more or an equivalent value;

b. obtained directly or indirectly from corruption, bribery, smuggling of goods, smuggling of workers/immigrants, banking, narcotics, psychotropic, trading of slaves, women and children, kidnapping, terrorism, theft, embezzlement, fraud.

3. Criminal acts :

a. Article 3

Any person who knowingly places, transfers, disburses or spends, donates or contributes, entrusts, takes overseas, exchanges, hides or conceals assets known or reasonably suspected by him to constitute proceeds of crime, either on his own behalf or on behalf of another party, shall be subject because of the crime of money laundering to a criminal penalty of a minimum imprisonment of 5 years and a maximum of 15 years, and a minimum fine of Rp 5 billion and a maximum fine of Rp 15 billion.

b. Article 6

Any person receiving or controlling the placement, transfer, payment, donation, contribution, storage, exchange of assets known or reasonably suspected by him to constitute the proceeds of crime, shall be subject to the criminal sanction of imprisonment for a minimum of 5 years and for a maximum of 15 years, and to a minimum fine of Rp 5 billion and to a maximum fine of Rp 15 billion.

c. Article 8

Providers of financial services knowingly not providing reports to the Center of Financial Transaction Reporting and Analysis (*Pusat Pelaporan dan Analisis Transaksi Keuangan*/PPATK) as intended in Article 13 sub article 1 (suspicious financial transaction, or cash transaction to a cumulative total of Rp 500 million or more) shall be subject to a fine of not less than Rp 250 million and not more than Rp 1 billion.

d. Article 9

Any person failing to report cash amounting to Rp 100 million or more brought into or taken out of the territory of the Republic of Indonesia shall be subject to the criminal sanction of a fine of not less than Rp 100 million and not more than Rp 300 million.

4. Reporting

a. Financial service providers shall report to the PPATK: Suspicious financial transactions, and cash transactions in the amount of Rp 500 million or more either single or multiple transactions in one working day.

b. Exempted transactions from the reporting obligation: interbank transaction, transaction with the government or central bank, payment for salary/pension, and others.

c. The implementation of reporting obligation by financial service provider is exempted from bank secrecy provision.

5. Anybody carrying cash in the amount of Rp 100 million or more into or out from the territory of the Republic of Indonesia shall report to the Director General of Customs and Excise.

6. Providers of financial services must maintain records and documents concerning the identity of users of financial services for 5 years as from the time the business relationship with the user concerned ends.

7. Protection of reporting parties and witnesses :

a. Any person reporting or giving testimony about a crime of money laundering must be provided with special protection by the state against possible threats endangering the person concerned, his life, and/or his assets, including his family.

b. No civil or criminal action may be initiated against reporting parties and/or witnesses for reporting and/or testimony given by them.

c. The PPATK, investigators, public prosecutors and judges shall be obligated to keep the identity of a reporting party secret.

d. During the court sessions, witnesses, the public prosecutor, the judge and other parties shall be prohibited from mentioning the name or address of the reporting party.

Sub-paragraph 1 (c)

- Please outline the procedures for freezing the assets of an individual or of an entity with alleged terrorist links abroad upon request of a foreign country

1. In addition to the explanations in the First Report, Article 44 of Law No. 15/2002 states that for purposes of investigating, charging and proceedings in the court of law against individual(s) or entity(ies) suspected of money laundering activities, the Government of Indonesia, on the basis of mutual agreement with other states, can seize suspected assets through regional cooperation or other bilateral and multilateral forum.

Sub-paragraph 1 (d)

- Please clarify whether Regulation No. 3/10/PBI/2001 of 18 June 2001 regarding "know your customers' principles" as amended by Bank Indonesia Regulation No. 3/23/PBI/2001 of 13 December 2001 is legally binding;
- What are the consequences, in Indonesian civil and penal law, if the policies and procedures set out in the above-mentioned Regulation are not followed by a bank?

1. Article 1 paragraph 8 of Law No. 23/1999 pertaining to Bank Indonesia, stipulates that Bank Indonesia, as the central bank, has the authority to issue legally binding Bank Indonesia Regulations (*Peraturan Bank Indonesia*/PBI), which will be included in the Official Gazette of the Government of Indonesia (*Lembaran Negara Republik Indonesia*).

2. In the event bank(s) are not following the PBIs, Bank Indonesia can not apply penal code or civil code sanctions. Sanction for not implementing PBIs will only be administrative in nature as regulated in Article 52, paragraph 2 of Law No. 7/1992 pertaining to Banking, as amended by Law No. 10/1998. Administrative sanction will include freezing of business activities and dismissal of the bank's board of management.

Operative Paragraph 2

Sub-paragraph 2 (a)

- It is not clear from the report whether current Indonesian legislation is adequate to achieve the aims of suppressing recruitment to terrorist groups and

of prohibiting the supply of weapons to terrorists on the basis of Articles 160, 163 bis, 187 and 187 bis of the Penal Code of Indonesia. Please clarify whether the full implementation of sub paragraph 2 (a) is meant to be achieved by the draft Indonesian anti terrorist legislation.

- Please outline the measures, both legislative and practical, preventing entities and individuals from recruiting, collecting funds or soliciting other forms of support for terrorist activities to be carried out inside or outside Indonesia, in particular:

– the carrying out, within or from Indonesia, of recruiting, collecting of funds and soliciting of other forms of support from other countries; and

– deceptive activities such as recruitment based on a representation to the recruit that the purpose of the recruitment is one (e.g. teaching) different from the true purpose and collection of funds through front organisations.

- Please provide a report on the progress of the draft anti-terrorism legislation

1. The draft anti-terrorist legislation aims at covering anyone conducting terrorism in the territory of Indonesia. Other states which also have jurisdiction on the suspect and have expressed their intention to prosecute, will be governed in accordance with the provisions of the draft legislation. The draft legislation will also cover other aspects such as supporting to entities or persons involved in terrorist acts, suppressing recruitment and eliminating the supply of weapons. Articles in the draft legislation on anti-terrorism criminalizes any form of support and conspiracy to criminal acts.

2. Articles 55 and 56 of the Penal Code also criminalizes the acts of instigating and assisting/ supporting such acts. Likewise, Law No. 4/1976 is applicable to any crimes related to civil aviation; Law No. 12/1951 to explosive materials; and Law No. 9/1992 on Immigration with regard to the preventive measures. Law No. 1/1979 on Extradition constitutes also a legal basis for cooperation with other countries in combating terrorism.

3. As to the progress on the draft anti-terrorism legislation, the process is still on-going. At the present stage, the team of experts have been expanded to include other segments of society, such as prominent lawyers, religious leaders, members of civic groups, NGOs etc. in the drafting exercise.

Sub-paragraph ` (c)

- According to Indonesia's report, Regulation no. 9/1992 on Immigration contains elements which could be applied to ensure that no safe haven is given to those who finance, plan, support, or commit terrorist acts. This Regulation seems to be applicable only to foreigners residing in Indonesia. Please clarify the situation regarding the denial of safe haven to non-resident foreigners who have committed one or more of the acts listed in sub-paragraph 2 (c).

1. As already mentioned in the First Report to the CTC, Article 42 (1) and (2), and Article 54 (a) of Law No. 9/1992 on Immigration is applicable not only to foreigners residing within the territory of Indonesia, but also to foreigners with the status of short visitors. In addition, Indonesia has established control mechanism which could among others effectively deny foreigners from entering or leaving the

territory of Indonesia, based on Article 40 of the aforementioned law which reads as follows :

Article 40

"Control mechanism for foreigners shall be carried out by means of :

a. collecting and processing data of foreigners entering or leaving the territory of Indonesia;

b. collecting data of foreigners residing in the territory of Indonesia;

c. monitoring, collecting and processing materials and information concerning activities of the foreigners;

d. preparing the list of individuals who have been denied entry or leave the territory of Indonesia, and

e. any other means available."

Sub-paragraph 2 (d)

- The comment under this sub-paragraph does not contain information about the legislation and procedures which prevent those who plan, facilitate or commit terrorist acts from using Indonesian territory for those purposes against other States or their citizens. Please could Indonesia clarify whether those acts will be covered by the anti-terrorism legislation Indonesia plans to promulgate.

1. The above mentioned acts shall be covered in the draft legislation on anti-terrorism which is currently in the process of formulation. Nevertheless, Law No. 9/1992 on Immigration explicitly cover those acts as preventive measure. The articles regulating those acts are as follows

Article 17

"Denial of entry of foreigner into the territory of Indonesia is carried out for reasons of:

a. the individual is known to be involved in the activities of international criminal organization;

b. the individual shows enmity towards the Government of Indonesia or has committed an activity which disrespect the people and state of Indonesia, in his/her respective country or in any other country;

c. the individual is believed to have committed an act contrary to the law and public order, moral values, religion and customs of the people of Indonesia;

d. at the request of a state, a foreigner who is trying to avoid the law of that state being enforced upon him/her, for committing a crime which is also criminalized by the law of Indonesia;

e. the individual has been expelled or deported from the territory of Indonesia; and

f. any other reason regarding immigration which will be regulated by Government Regulation."

Article 38 (1)

"Control mechanism for foreigners in the territory of Indonesia covers :

a. the entry and exit of foreigners to and from the territory of Indonesia;

b. the presence and the activities of the foreigners within the territory of Indonesia."

2. The definition of control mechanism regarding the presence and activities of foreigners within the territory of Indonesia is explicitly preventive in nature covering measures of control of possible activities related to acts of terrorism against other states and its citizens by foreigners in the territory of Indonesia.

Sub-paragraph 2 (e)

- Are the relevant provisions of the Penal Code of Indonesia applicable in all of the following circumstances:

– acts committed outside Indonesia by a person who is citizen of, or habitually resident in, Indonesia (whether that person is currently present in Indonesia or not);

– acts committed outside Indonesia by a foreign national who is currently in Indonesia?

1. Applicability of the relevant provisions of the Indonesian Penal Code to acts committed within the Indonesian territory (either abroad by an Indonesian national or by a person who has his/her habitual residence in Indonesia or when the acts have been committed abroad by a foreign national who happens to be in Indonesia) : The Indonesian Penal Code applies the "territorial principle" (Article 2); the "active nationality principle" (Article 5); and the "passive nationality principle" (Article 4 paras. 1.2.3.); as well as the "universal principle" (Article 4 paragraph 4, regarding piracy and crimes related to civil aviation safety), taking into account the exemptions recognized by International Law. Consequently, the Indonesian Penal Code applies to crimes committed in or outside the Indonesian territory. Law No. 1/1979 on Extradition and Mutual Legal Assistance (MLA) could also serve as legal basis for cooperation with other countries, particularly with regards to extradition of suspects or as regards to legal assistance.

Sub-paragraph 2 (f)

- Is there any legal provision or other arrangement by which Indonesia provides assistance as required by sub-paragraph 2 (f) of the Resolution?

1. Legal provision : Decree of the People's Consultative Assembly No. IV/MPR/1999 regarding the General State Guide-Lines (GBHN) 1999-2004, where Chapter IV.C.2.f and g ("Foreign Relations") provide the broad outlines of national policy for the legislative and executive spheres of Government, and Law No. 1/1979 on Extradition.

2. Other arrangements :

a. MOU between the Government of Indonesia and the Government of Australia on Combating International Terrorism, signed and came into effect on 7 February 2002. This MOU provides a framework for cooperation in preventing, suppressing and combating international terrorism through the exchange of

information and intelligence, and if need be, the existing forms of cooperation could lead to the establishment of a joint operation;

b. The Agreement on Information Exchange and Establishment of Communication Procedures, among the Government of Indonesia, the Government of Malaysia and the Government of the Philippines signed in PutraJaya, Malaysia on 7 May 2002. This instrument would constitute a sub-regional mechanism to combat terrorism and other transnational crimes. Such a mechanism would complement existing bilateral, regional and global arrangements and processes intended to address the threat and scourge of terrorism.

c. Treaty between Indonesia and the Republic of Korea on Mutual Legal Assistance in Criminal Matters, concluded and signed in March 30, 2002 in Seoul. Both parties shall, in accordance with the provisions of this treaty, grant each other assistance in criminal matters; criminal matters mean investigations, prosecutions or proceedings relating to any offence the punishment of which at the time of request for assistance, falls within the jurisdiction of the competent authorities of the requesting party.

3. The TNI's Strategic Intelligence Agency (BAIS-TNI) is also cooperating with its ASEAN counterparts based on bilateral MOUs on Defense, inter-alia between Indonesia-Malaysia, Indonesia-Singapore, Indonesia-Thailand, and Indonesia-Philippines. Whereas cooperation with other counterparts is based on 'political will' from the respective governments, through bilateral government-to-government (G-to-G) cooperation. As Indonesia never concluded any defense treaty nor is it a member of any defense pact, Indonesia's framework of intelligence cooperation is therefore not bound by any legal provision.

4. BAIS-TNI has competence only in preparing intelligence reports and does not have the authority to conduct investigations. Its reports shall be forwarded to the relevant agencies inter alia the Police (POLRI) and the Directorate General of Immigration, for them to follow up such reports.

Sub-paragraph 2 (g)

- Could Indonesia please provide the CTC with information on the mechanism for inter-agency cooperation between the authorities responsible for narcotics control, financing tracking and security with particular regard to the border controls preventing the movement of terrorists.

1. On narcotics control, the Government has established a National Narcotics Board, consisting of 25 related agencies, responsible for coordinating national policies and strategies, and has the authority to establish task forces on the operational level, in the field of preventive treatment, rehabilitation and law enforcement.

2. On financing tracking, please refer to sub-paragraph 1(b)4 on 'Reporting'.

3. On control mechanism for foreigners, the Directorate General of Immigration, together with other law enforcement agencies, has set up SIPORA (*Koordinasi Pengawasan Orang Asing*/Coordination in Controlling Foreigners) to control not only the borders but, administratively, to set up such coordination in each province. The SIPORA includes the Directorate General of Immigration, the Police, the Office of the Attorney General and other relevant agencies for issuing permits for foreigners, such as the Department of Manpower, the Department of Religious

Affairs and the Department of National Education. This cooperation is conducted by exchanging information through regular or occasional meetings, with the aim at arriving to a common perception and joint action in case a problem arises involving a foreigner.

4. In addition, the National Intelligence Agency (*Badan Intelijen Nasional*/BIN), through its regular meetings of the "Intelligence Community", provides relevant intelligence information to the other relevant agencies.

Sub-paragraph 3 (a)

- Does the cooperation between BAIS-TNI and other countries cover all aspects mentioned by this sub-paragraph?
- Please outline the legislative or regulatory framework for the exchange of information required under this sub-paragraph.

1. Cooperation between BAIS-TNI and other countries basically covers almost all aspects mentioned by this sub-paragraph. BAIS-TNI immediately follows up any information received from other institutions, such as Police, Immigration and P.T. Telkom according to the issues.

2. Exchange of information between BAIS-TNI and its counterparts is carried out not only periodically through INTELEX Seminar, but anytime when it is deemed necessary. Communication with BAIS-TNI could be done through foreign representatives in Jakarta. Similarly, BAIS-TNI could communicate some specific issues with its counterparts through the Indonesian Military Attaches abroad.

3. As far as Police duties are concerned, mainly in inquiries and investigation on crimes, Indonesia's Law on Extradition regulates the apprehension procedure in the process of extradition. According to the Law, the Police has the authority to apprehend in the process of extradition if there is an official/written request from the authorized institution of the requesting country to the Police. This request could be submitted directly to the Police or through diplomatic channels or through Interpol network. Indonesia has concluded extradition agreements with Malaysia, Thailand, the Philippines, Australia, Hong Kong-SARC and South Korea.

4. In the event extradition agreement has not yet been concluded, cooperation with the Police of other countries can to be carried out through "Agreement on Mutual Assistance in Criminal Matters." This mutual assistance arrangement is set up to facilitate information gathering from the witnesses, confiscation of goods related to crime (evidence), etc.

5. In the framework of regional cooperation, ASEANAPOL is the forum where the Chiefs of Police of the ASEAN countries can meet annually to discuss the issues related to transnational crimes, including terrorism and efforts to overcome, and cooperation on human resources, education and training, exchange of visits, etc. Within ASEANAPOL, Indonesia and Malaysia are also conducting joint patrol along the border, and the establishment of Joint Task Force between the Indonesian Police and Singapore Police Force (SPF) to carry out maritime patrols.

6. In addition, pursuant to the decision of the ASEAN Senior Officials Meeting for the Third ASEAN Ministerial Meeting on Transnational Crime (AMMTC) in October 2001, the Ad-hoc Expert Group Meeting on the Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime was held in

Bali, Indonesia on 21-23 January 2002 to draft the said Work Programme. The Work Programme was subsequently endorsed and adopted by the Second Annual ASEAN Senior Officials Meeting on Transnational Crime in Kuala Lumpur, Malaysia on 16-17 May 2002.

7. The Work Programme to Implement the ASEAN Plan of Action to Combat Transnational Crime covers the following eight priority areas :

a. Trafficking in illegal drugs

b. Trafficking in women and children

c. Sea-piracy

d. Arms smuggling

e. Money laundering

f. Terrorism

g. International economic crime

h. Cyber crime

The Work Programme consists of cooperation on exchange of information, legal matters, law enforcement matters, training, institutional capacity-building and extra-regional cooperation.

8. The Special ASEAN Ministerial Meeting on Terrorism was held in Kuala Lumpur, Malaysia on 20-21 May 2002. In its Joint Communique, the ASEAN Ministers responsible for transnational crime issues, among others, expressed their commitment to execute the Work Programme on Terrorism and noted the various projects and initiatives to be undertaken by ASEAN member countries to combat terrorism.

9. The Republic of Indonesia, Malaysia and the Republic of the Philippines have also agreed to cooperate among themselves to combat transnational crime, including terrorism, by signing the Agreement on Information Exchange and Establishment of Communication Procedures between the Republic of Indonesia, Malaysia and the Republic of the Philippines in PutraJaya, Malaysia, on 7 May 2002.

Sub-paragraphs 3 (b) and (c)

- According to the report, "Indonesia has established mutual legal assistance with Australia and China" and "has established bilateral extradition agreements with Australia, the Philippines, Malaysia, Thailand, Hong Kong and the Republic of Korea". Does Indonesia contemplate the conclusion of agreements on mutual legal assistance and extradition with other countries?

1. The Decree by the People's Consultative Assembly No. IV/MPR/1999 regarding the General State Guide Lines (GBHN) 1999-2004, Chapter IV.C.2.f and g ("Foreign Relations"), states that Indonesia shall extend extradition treaties with other countries and shall facilitate diplomatic procedures in implementing extradition treaties in order to resolve criminal cases; likewise, Indonesia shall cooperate in various fields with neighbouring countries, through ASEAN cooperation, with a view to preserving stability, and pursuing development and welfare. In short, it is the policy of Indonesia to establish extradition treaties and MLA with other (willing) countries.

Sub-paragraph 3 (d)

- Please outline the legislation which implements those of the relevant international conventions and protocols relating to terrorism which Indonesia has already ratified.
- Please also provide a progress report on the ratification of the relevant international conventions and protocols relating to terrorism to which Indonesia has not yet become a party

1. The legislation implementing the relevant Conventions ratified by Indonesia are contained in Law No. 2/1976 and its supplement contained in Law No. 4/1976.

2. Progress report on the possible ratification of the relevant UN conventions : Indonesia has signed the Protocol for the Suppression of Unlawful Acts of Violence at Airports Serving International Civil Aviation, supplementary to the Convention for the Suppression of Unlawful Acts against the safety of Civil Aviation, 1988, the International Convention for the Suppression of the Financing of Terrorism, 1999. In conformity with Law No. 24/2000 on Treaties, the said Protocol and Convention have yet to be ratified by Indonesia. As regards the other relevant conventions, the Government is still conducting a thorough study for possible ratification. Pursuant to the existing procedures, the study should be done by interdepartmental forum, consisting of relevant institutions. This forum will then submit its recommendation to the President for consideration.

Sub-paragraph 3 (e)

- Have the crimes set forth in the relevant international legal instruments relating to terrorism to which Indonesia is a party been included as extraditable offences in the bilateral treaties which Indonesia has concluded with other countries as provided for in a number of those instruments?

1. Bilateral treaties : the crimes set forth in the relevant conventions (particularly those set forth in the conventions already ratified by Indonesia) have been included into the bilateral treaties, as can be seen in the following bilateral extradition treaties with :

a. **the Republic of the Philippines, 10 February 1976**: Article II of the Agreement, stipulates extraditable crimes as to include, inter alia, kidnapping, extortion threats, coercion, smuggling, hijacking, piracy. crimes against the laws to narcotics, dangerous or prohibited drugs/chemicals, and crimes against the laws relating to firearms, explosives, or incendiary devices.

b. **the Government of Hongkong (now Hongkong SARC), 10 February 1976**: Article 2 of the Agreement, stipulated that surrender shall be granted for an offence such as murder, maliciously wounding, inflicting grievous or actual bodily harm, kidnapping, taking a hostage, criminal intimidation, offences against the law relating to dangerous drugs including narcotics and psychotropic substan·es, offences against the law relating to firearms and explosives, piracy involving ships or aircraft, unlawful seizure or exercise of control of an aircraft or other means of transportation, smuggling, offences for which fugitive may be surrendered under international conventions binding on the parties.

c. **the Government of Malaysia, 7 June 1974**: Article 2 jo. Annex to the Agreement listed extraditable crimes as to include, inter alia, murder and attempted

murder, abduction and kidnapping, causing bodily hurt, smuggling, offences punishable under the laws relating to dangerous drugs, piracy by law of nations, unlawful destruction of or injury to property, any other offence added from time to time to this annex upon agreement by both parties.

d. **the Government of the Kingdom of Thailand, 29 June 1976**: Article 2 jo Annex of the Agreement set forth extraditable crimes as to include, inter alia, murder, causing bodily harm, wilful or unlawful destruction of or damage to property, smuggling, crimes punishable under the laws relating to dangerous drugs, unlawful possession of or trafficking in fire arms, ammunition or explosives, piracy by the Law of Nations, any other crime added to this Annex in accordance with paragraph (3) of Article 2.

e. **the Government of Australia, 22 April 1992**: according to Article 2, extraditable offences include, inter alia, wilful murder, murder, manslaughter, kidnapping, maliciously or wilfully damaging property, an act done with the intention or endangering the safety of persons travelling on a railway, vehicle, ship, or aircraft or of endangering or damaging a railway, vehicle, ship or aircraft, piracy, an unlawful act against the authority of the master of a ship or the commander of an aircraft, the unlawful seizure, or unlawful exercise of control, of a ship or aircraft, by force or threat of force or by any other form of intimidation, an unlawful act of any of the kinds specified in paragraph 1 of Article 1 of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, an offence against the law relating to dangerous drugs or narcotics.

f. **the Government of the Republic of Korea, 28 November 2000**: pursuant to Article 2, extraditable offences are offences which, at the time of the request, are punishable under the laws of both Parties by deprivation of liberty for a period of at least one year or by a more severe penalty.

Sub-paragraph 3 (f)

- According to the report, Indonesia has taken the initiative of convening a regional conference on people smuggling, trafficking in persons and other related transnational crimes in recognition of the close linkage between those issues and other transnational threats such as international terrorism. Please elaborate on the measures that will be taken in order to address the concerns referred to in sub-paragraph 3 (f) of the Resolution.

1. As a country which has not (yet) ratified UN Convention 1951 including its protocol 1967 on Status and Treatment of Refugees, Indonesia does not have legislation, procedures, nor mechanism to deal with refugees or asylum seekers. Law No. 9/1992 on Immigration categorizes these as 'illegal entries and thus shall be deported. Therefore, the Government of Indonesia has relied on the UNHCR representatives in Indonesia and IOM (International Organization of Migration) in the matter of status and treatment of refugees.

2. Nevertheless, as mentioned before, on illegal migrants, the Directorate General of Immigration is still in the process of establishing a Task Force dealing with illegal migrants in Indonesia involving some relevant institutions, in order to work on Government policy (which will be formulated in a Presidential's Decree) to address illegal migrants in Indonesia.

Sub-paragraph 3 (g)

- Does Indonesia intend to amend the exception clause for political crimes in view of the requirement of sub-paragraph 3 (g) of the Resolution?

1. Considering that the status of refugees is still the domain of the UNHCR representatives in Indonesia, and bearing in mind that Indonesia is not a Party to the Convention on the Refugees, there has therefore not yet been a regulation on refugees. However, referring to Abu Quassey case who has abused his status of refugee by enacting as people smuggler, he has been accused of immigration infraction namely document forgery as well as his presence in Indonesia in accordance with Law No. 9/1992, without dealing with his activity as people smuggler of which has not been regulated in Indonesian legislation.

2. Regarding the claim based on political motivation which could not be used as the reason to refuse extradition of the accused terrorists, the Principle of Non-Extradition of Political Crime which is one of ten principles of international law related to extradition is still prevalent in Law No. 1/1979 on Extradition (Article 5(1)), in addition, terrorism has not been encompassed on the list of crimes which are extraditable. Nevertheless, it has not been definite whether terrorism can be classified as a political crime. Therefore, Indonesia still practices the Principle of Non-Extradition of Political Crime based on Law No. 1/1979 on Extradition.

Operative Paragraph 4

- Has Indonesia addressed any of the concerns expressed in paragraph 4 of the resolution?

1. The Government of Indonesia attaches great importance to cooperation between states in combating international terrorism including transnational organized crime, illicit drugs, money laundering, illegal arms trafficking, and illegal movement of nuclear, chemical, biological and other potentially deadly materials. In this connection, Indonesia as an active member of the NPT, CWC, CTBT, South East Asia Nuclear Weapons Free Zone and BWC has developed close cooperation with related international institutions and agencies such as IAEA, OPCW, and Preparatory Committee of CTBTO.

2. Likewise, Indonesia has been actively engaged in promoting cooperation with other countries such as the ARF member countries. Within the ARF context, Indonesia has been actively participated and contributed to the discussions on illegal arms trafficking and international combat against terrorism. Specifically on illegal arms trafficking, Indonesia has already held several regional and national seminars to address the illegal arms trafficking. On 3-4 May 2000, Indonesia has collaborated with the Government of Japan and United Nations in holding the Jakarta Regional Seminar on the Illicit Trafficking in Small Arms and Light Weapons. In addition, the Government of Indonesia had also held two national seminars in 2001 to address Indonesia's preparations for the United Nations Conference on the Illicit Trade in Small Arms and Light Weapons in All its Aspects and implementation of the plan of actions of the Conference.

3. CONCLUSIONS

The Second Report of the Government of the Republic of Indonesia clearly elaborates the developments made since the submission of the First Report on 21 December 2001. The promulgation and enactment of Law No. 15/2002 on Crimes on

Money Laundering and the continuing process of formulation of the draft legislation on anti-terrorism is a clear manifestation of the efforts undertaken by the Government of Indonesia in combating terrorism.

The process of ratification of related international conventions to combat terrorism, namely "International Convention for the Suppression of the Financing of Terrorism, 1999", "Convention against Transnational Crime" along with its Optional Protocols, and consideration to accede to the "International Convention for the Suppression of Terrorist Bombing", are still continuing.

Similarly, Indonesia's efforts in combating terrorism extend regionally and multilaterally, inter-alia through the Bali Ministerial Conference on People Smuggling, Trafficking in Persons and Related Transnational Crime, as well as the ASEAN Senior Officials Meeting for the Third ASEAN Ministerial Meeting on Transnational Crime (AMMTC). These meetings have stressed the importance of international cooperation as the main feature in effectively combating terrorism.